



**BILLING CODE: 8070-01P**

**FEDERAL HOUSING FINANCE AGENCY**

**[No. 2012-N-01]**

**12 CFR Chapter XII**

**Regulatory Review Plan**

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** [Notice of final regulatory review plan.](#)

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**SUMMARY:** The Federal Housing Finance Agency (FHFA) is issuing a notice of the final FHFA regulatory review plan for review of existing regulations under Executive Order 13579, “Regulation and Independent Regulatory Agencies,” (July 11, 2011).

**DATES:** The effective date of this document is [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Alfred M. Pollard, General Counsel, [alfred.pollard@fhfa.gov](mailto:alfred.pollard@fhfa.gov), telephone (202) 649-3050 (not a toll-free number), Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW, Washington, DC 20024. The telephone number for the Telecommunications Device for the Deaf is (800) 877-8339.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Executive Order 13579

Executive Order 13579, “Regulation and Independent Regulatory Agencies,”

(July 11, 2011), requests that each independent regulatory agency, such as FHFA, analyze its existing regulations and modify, streamline, expand, or repeal them in accordance with the findings of the analysis. Executive Order 13579 also requests each independent regulatory agency to make public a plan under which the agency will periodically review its existing significant regulations to make the agency's regulatory program more effective or less burdensome in achieving regulatory objectives.

#### Establishment of FHFA; Transfer and Review of Regulations

The Housing and Economic Recovery Act of 2008 (HERA) established FHFA on July 30, 2008, as an independent regulatory agency to supervise and regulate the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Federal Home Loan Banks (collectively, regulated entities), and the Office of Finance of the Federal Home Loan Bank System. HERA transferred to the new agency the employees, functions, and regulations of the Office of Federal Housing Enterprise Oversight (OFHEO), the Federal Housing Finance Board (FHFB), and the Government-Sponsored Enterprise mission team within the U.S. Department of Housing and Urban Development (HUD).

HERA and, most recently, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) mandate that FHFA issue new regulations on specific matters in connection with FHFA's supervision and regulation of the regulated entities and the Office of Finance. Currently, in determining whether to revise, adopt without change, or repeal transferred OFHEO, FHFB, and certain HUD regulations, FHFA reviews such regulations to determine the appropriate action and publishes the regulations for comment. Public comments provide additional information to FHFA on

how to make the regulations more effective and less burdensome.

#### Regulatory review plan under Executive Order 13579

FHFA's current review of OFHEO, FHFB, and certain HUD regulations is similar to the review it will conduct of existing regulations under Executive Order 13579. The regulatory review plan is set forth below. FHFA will conduct the review of its existing regulations under Executive Order 13579 at least every five years. In light of the recent establishment of FHFA and ongoing regulatory activities mandated by HERA and the Dodd-Frank Act, the first review will begin no later than August 2013, five years after the establishment of FHFA. FHFA regulations published in Chapter XII of Title 12 of the Code of Federal Regulations and are also posted on the FHFA internet web site at <http://www.fhfa.gov>.

## **II. Notice of Regulatory Review Plan**

FHFA published a notice of its interim regulatory review plan and requested comments on the plan. 76 FR 59066 (September 23, 2011). FHFA received no comments. FHFA is adopting as final the interim regulatory review plan without change. The final regulatory review plan follows.

### **PLAN FOR REVIEW OF EXISTING REGULATIONS UNDER EXECUTIVE ORDER 13579**

a. Scope and timing of regulatory reviews. At least every five years, FHFA will conduct a review of the regulations it has issued and that are in effect. The first regulatory review will begin no later than August 2013.

b. Factors considered in the regulatory reviews. The regulatory reviews will take into consideration the following factors, as applicable:

(1) Legal or regulatory developments, including new laws, executive orders, or judicial decisions that have been adopted since the promulgation of a regulation that make such regulation inefficient, obsolete, contrary to controlling legal precedent, or unduly burdensome;

(2) Application by Fannie Mae, Freddie Mac, or a Federal Home Loan Bank (regulated entity) or the Office of Finance of the Federal Home Loan Bank System for revision of a regulation because of reasonably discernible regulatory burden or inefficiency;

(3) Marketplace developments, technological evolution and related changes that may have rendered an existing regulation, in whole or in part, inefficient, outmoded, or outdated;

(4) Such other occurrences or developments as determined by FHFA to be relevant to a review for inefficiency or unwarranted regulatory burden;

(5) Whether the provisions of the regulation are written in plain language or otherwise need clarification;

(6) Compelling evidence that a consolidation of two or more regulations, elimination of a duplicative regulation, or other revision to regulatory requirements would facilitate compliance by or supervision of a regulated entity or the Office of Finance;

(7) A demonstration of a better alternative method to effect a regulatory purpose or requirement supported by compelling evidence of significantly less intrusive means or of a substantially more efficient method of accomplishing the same supervisory purpose; and

(8) Such other factors as determined by FHFA to be relevant to determining and evaluating the need for and effectiveness of a particular regulation.

c. Regulatory review process.— (1) The regulatory reviews will be conducted by the FHFA Office of General Counsel, under the direction of the General Counsel, and will include internal consultation with other FHFA offices and staff, guidance provided by the FHFA Director, as well as consideration of public comments.

(2) A review and report of findings and recommendations will be provided to the FHFA Director on a timely basis. The report of findings and recommendations will be privileged and confidential.

(3) After receiving the report of findings and recommendations, the FHFA Director will determine what steps may be necessary to relieve any unnecessary burden, including amendment to or repeal of existing regulations or issuance of less formal guidance.

d. No right of action. The regulatory reviews are not formal or informal rulemaking proceedings under the Administrative Procedure Act and create no right of action against FHFA. Moreover, the determination of FHFA to conduct or not to conduct a review of a regulation and any determination, finding, or recommendation resulting from any review are not final agency actions and, as such, are not subject to judicial review.

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Edward J. DeMarco  
Acting Director, Federal Housing Finance Agency.

Dated: February 15, 2012

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